

JLW:rh

Baltimore County
Department of Traffic Engineering
TOWSON, MARYLAND 21204
(301) 494-3550

STEPHEN E. COLLINS
DIRECTOR

October 8, 1981

Mr. William Hackett
Chairman, Board of Appeals
Office of Law, Courthouse
Towson, Maryland 21204

Cycle II - Meeting of September 14, 1981
Item No. - 4
Property Owner: Edward D. Ireland, et al
Location: W/S Scotts Level Road & N/S Chicory Hill Lane
Existing Zoning: D.R. 5.5
Proposed Zoning: D.R. 16
Acres: 4
District: 4th.

Dear Mr. Hackett:

The existing D.R. 5.5 zoning can be expected to generate approximately 220 trips per day and the proposed D.R. 16 zoning can be expected to generate approximately 480 trips per day.

The intersection of Scotts Level and Milford Hill Road and Scotts Level and Old Court Road are at E level of service.

Michael S. Flanagan
Traffic Engineering Associate II

MSF/r1j

BALTIMORE COUNTY
DEPARTMENT OF HEALTH
TOWSON, MARYLAND 21204

DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE & COUNTY HEALTH OFFICER

September 30, 1981

Mr. Walter Reiter, Chairman
Board of Appeals
Court House
Towson, Maryland 21204

Dear Mr. Reiter:

Comments on Item #4, Zoning Advisory Committee Meeting for Cycle II, are as follows:

Property Owner: Edward D. Ireland, et al
Location: W/S Scotts Level Road & N/S Chicory Hill Lane
Existing Zoning: D.R. 5.5
Proposed Zoning: D.R. 16
Acres: 4
District: 2nd.

Metropolitan water and sewer are available. Connection to metropolitan sewer is subject to the Owynns Falls Sewer moratorium.

The Zoning Plan, as submitted, does not include enough information to enable the Baltimore County Department of Health to make complete comments.

Very truly yours,

Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJF/JRP/mgt

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204
825-7310

PAUL H. REINCKE
CHIEF

October 9, 1981

Mr. William Hammond cc: William Hackett
Zoning Commissioner Chairman of Board of Appeals
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Edward D. Ireland, et al

Location: W/S Scotts Level Road and N/S Chicory Hill Lane

Item No.: 4

Zoning Agenda: Meeting of September 14, 1981

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

(X) 1. Fire hydrants for the referenced property are required and shall be located at intervals of 500 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWER: Noted and Approved: George M. McEgan
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/mh/cm

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William Hackett-Chairman
Board of Appeals
Date: September 22, 1981

CC: Nick Commodari

FROM: Charles E. Burnham

SUBJECT: Cycle II-1981
Item #4 Zoning Advisory Committee Meeting 9-14-81

Property Owner: Edward D. Ireland, et al
Location: W/S Scotts Level Road & N/S Chicory Hill Lane
Existing Zoning: D.R. 5.5
Proposed Zoning: D.R. 16

Acres: 4
District: 2nd

All future improvements shall be in compliance with the Baltimore County Building Code, the Handicapped Code of the State of Maryland and other applicable rules, regulations and codes.

No construction shall begin until the applicable permits have been obtained.

Charles E. Burnham
Plans Review Chief

CEB:rrj

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent
Towson, Maryland - 21204
Date: 9/22/81

Mr. Walter Reiter
Chairman, Board of Appeals
Baltimore County Office Building
1111 West Chesapeake Avenue
Towson, Maryland 21204

Zoning Cycle #11 - 1981
Meeting of 9/14/81

RE: Item No. 4
Property Owner: Edward D. Ireland, et al
Location: W/S Scotts Level Road & N/S Chicory Hill Lane
Present Zoning: D.R. 5.5
Proposed Zoning: D.R. 16
Acreage: 4

School Situation	Enrollment	Capacity	Over/Under
School			
Winand El.	606	666	-60
Old Court Jr.	971	1263	-292
Milford Hill Sr.	1123	1505	-382

Student Yield With:	Existing Zoning	And	Proposed Zoning
Elementary	2-12		0-9
Junior High	2-4		0-4
Senior High	1-6		0-2

Schools servicing this area are all able to accommodate any pupils from either existing zoning or from proposed zoning.

Very truly yours,
Wm. Nick Petrovich, Assistant
Department of Planning

WNP/bp

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William Hackett-Chairman
Board of Appeals
Date: September 22, 1981

CC: Nick Commodari

FROM: Charles E. Burnham

SUBJECT: Cycle II-1981
Item #4 Zoning Advisory Committee Meeting 9-14-81

Property Owner: Edward D. Ireland, et al
Location: W/S Scotts Level Road & N/S Chicory Hill Lane
Existing Zoning: D.R. 5.5
Proposed Zoning: D.R. 16

Acres: 4
District: 2nd

All future improvements shall be in compliance with the Baltimore County Building Code, the Handicapped Code of the State of Maryland and other applicable rules, regulations and codes.

No construction shall begin until the applicable permits have been obtained.

Charles E. Burnham
Plans Review Chief

RECEIVED
BALTIMORE COUNTY
SEP 23 10 50 AM '81
COMMUNITY DEPT.
PLANNING DIV.

IN THE MATTER OF THE APPLICATION OF EDWARD D. IRELAND, et al., PETITIONERS FOR REZONING OF PROPERTY LOCATED AT W/S SCOTTS LEVEL RD. & N/S CHICORY HILL LANE, 2ND DISTRICT, FROM D.R. 5.5 TO D.R. 16

ZONING FILE NO. R-82-183

JERMOWEB, INC., APPELLANTS

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

FOR

BALTIMORE COUNTY

AT LAW: 14/129/82-M-124

ORDER AFFIRMING BOARD OF APPEALS OF BALTIMORE COUNTY

As a result of a hearing before the court today, it is ORDERED by the Circuit Court for Baltimore County this 25th day of January, 1983 for the reasons stated on the record as follows:

1) That the Motion to Dismiss (paper no. 8) filed by People's Counsel be and is hereby overruled.

2) That the Appeal as heard on the record results in the declaration of this court that the decision of the Board of Appeals of Baltimore County be and is hereby affirmed. Costs to be paid by appellant.

RECEIVED
BALTIMORE COUNTY
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COMMUNITY DEPT.
PLANNING DIV.

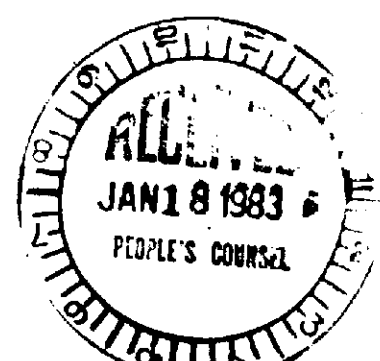
JFP:jal

cc: Donald P. Mazor, Esquire
John W. Hessian, III, Esquire



IN THE MATTER
OF THE APPLICATION
OF EDWARD D. IRELAND, et al.,
PETITIONERS
FOR REZONING OF PROPERTY
LOCATED AT W/S SCOTTS LEVEL
RD. & N/S CHICORY HILL LANE,
2nd DISTRICT, FROM D.R. 5.5
TO D.R. 16
ZONING FILE NO. R-82-183
JERMOWEB, INC.,
APPELLANTS

IN THE CIRCUIT COURT
OF BALTIMORE COUNTY
AT LAW
Misc. 14/129/82-M-124



MEMORANDUM

This matter is an appeal of the opinion of the Board of Appeals of Baltimore County dated March 31, 1982, wherein the Petitioners were denied their request to change their property from present zoning of D.R. 5.5 to D.R. 16. The property is a vacant lot located south of the Scotts Level Apartment complex which is zoned D.R. 16 and north of the St. Charles Apartments, also zoned D.R. 16. To the east of the property, is a similar section of D.R. 16 running along the Baltimore Beltway, which at this point is undeveloped.

The neighborhood of the subject property has been defined by Mr. James Hoswell, who testified on behalf of the County at the Hearing for the County Board of Appeals, as indicated on page 91 of the transcript. He defined same as the Baltimore Beltway on the easternmost boundary, and then beginning at Old Court Road and running down to Milford Mill, and moving in a westerly direction to some point that he described as "take your pick within reason". This area seemingly has been described and shown on the section of zoning map attached to the Petitioners original petition for zoning reclassification which was filed as part of said original petition.

The Board of Appeals determined that there was no evidence of significant change in the neighborhood since the last Comprehensive Zoning Map which was adopted in October 1980 and it further decided that the strong presumption of correctness

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enough to do so." It is once again the Petitioners contention that the evidence as presented by their expert certainly was and is substantial and strong enough to show error in the Comprehensive Zoning Map of 1980.

Although the change - mistake rule is the only real issue of this appeal, I believe it should be fairly pointed out to this Court that there was substantial testimony at the hearing before the Board of Appeals involving the traffic situation at a number of intersections servicing this area, and the issue of the Gwynns Falls sewer matter. The County Board of Appeals recognized that the county agencies in presenting their comments to the Zoning Advisory Committee were in error on several of these issues. The information presented to the Committee concerning the traffic flow levels of these sections was incorrect and the information presented concerning a moratorium on the Gwynns Falls basin was incorrect, there, in fact, being no moratorium but merely an allocation on particular need or use. Although it is not necessary to use these issues in the presentation of the Petitioners Appeal, these items are simply pointed out to lend additional credibility to the Petitioners expert and to assist this Honorable Court in reversing the decision of the County Board of Appeals by authorizing reclassification of the subject property from the present D.R. 5.5 to the requested D.R. 16.

Respectfully submitted,

15/
Donald P. Mazor
114 Slade Avenue
Baltimore, Maryland 21208
486-0115
Attorney for the Petitioners/Appellants

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which goes with the County Councils adoption of the Comprehensive Zoning Map of 1980 had not been overcome by the Petitioners. Accordingly, the very narrow question presented by this Appeal - the effect of the change - mistake rule as applied to the facts of this case in regard to the testimony presented at the hearing.

It is the Petitioners contention that the action of the County Board of Appeals in denying the change from D.R. 5.5 to D.R. 16 was arbitrary, capricious and unreasonable. See Montgomery County Council vs. Kacur, 253 MD. 220, 252 A2d, 832. "The test whether zoning authority has properly declined to rezone realty is whether decision was fairly debatable and not arbitrary, capricious and unreasonable". The Petitioners contention is that the question was not fairly debatable in light of the testimony of the Petitioners expert, Sol E. Gerstman, who I believe fairly set forth for the County Board of Appeals the fact that the subject property is zoned D.R. 5.5 in a neighborhood, as previously defined, which abounds with property zoned D.R. 16. As was pointed out in the opinion of the County Board of Appeals, to the east of the subject property is a similar section of D.R. 16, which runs along the Baltimore Beltway, and which is also undeveloped at this time. The contention of Petitioners expert is that the entire quadrant of property lying southwest of Old Court Road and Baltimore Beltway, of which the subject property is a part, should have been zoned as D.R. 16 and that it is a mistake on the part of the County to have zoned the subject property D.R. 5.5 when it is surrounded extensively by D.R. 16 property. Petitioners expert further rightfully points out that the D.R. 5.5 zoning for the property upon which the Old Court Junior High School rests is not controlling in this instance, inasmuch as the zoning for that land could have been anything in view of the County's right of eminent domain and to use the land for the public convenience.

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I HEREBY CERTIFY, that on this 17th day of January, 1983, a copy of the foregoing Memorandum was mailed to John W. Hessian, III, Esquire, Peoples Counsel for Baltimore County, 102 W. Pennsylvania Avenue, Suite 603, Towson, Maryland 21204, and Peter Max Zimmerman, Deputy Peoples Counsel, Room 223, Courthouse, Towson, Maryland 21204.

17/
Donald P. Mazor, Attorney

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The case of Jacobs vs. County Board of Appeals of Baltimore County, 334 MD. 242, 198 A2d, 900, states as follows:

"Zoning is not static and zoning authorities, either in adopting comprehensive zoning plan or in granting reclassification, may take into consideration needs of reasonably foreseeable future".

The Petitioners expert further points out that there have been continuous change in this neighborhood from 1972 up to and including the present time. Exhibits 1 and 2, being aerial photographs, the first dated March 28, 1972 and the second dated in 1977 (transcript pages 6 and 7) were admitted for the purpose of showing neighborhood changes since 1972. Petitioners expert, who is also a resident of the area of the subject property (page 39 transcript), indicated the continuing development of the St. Charles Apartments, the new development called Court Haven, and the granting of a special exception for an office building at the intersection of Molloy Road and Scotts Level Road, in addition to road construction projects on Old Court Road and the Baltimore Beltway and Old Court Road and Greenwood Road, Old Court Road and Scotts Level Road, and rebuilding of Milford Mill and Wilmington Avenue, Milford Mill - Scotts Level and Milford Mill and Scotts Hill (pages 8 and 9 transcript). See case entitled Chevy Chase Village vs. Montgomery County Council, 258 MD. 27, 264 A2d, 861, "If there have been changes in neighborhoods since the comprehensive rezoning, District Council may consider changes prior to comprehensive rezoning to determine whether or not application for piecemeal rezoning will be granted. District Council may consider only changes prior to comprehensive rezoning in reaching its decision in regard to significance of subsequent change in neighborhood and whether or not it would be in the public interest to grant piecemeal rezoning."

It is contended on this appeal by the Petitioner that the issue of neighborhood change and mistakes of original zoning and confirmation of the original zoning by the Comprehensive Rezoning Map of 1980 is not fairly debatable. The neighborhood changes

IN THE MATTER OF THE
APPLICATION OF
EDWARD D. IRELAND, et al.,
PETITIONERS
FOR REZONING OF PROPERTY
LOCATED AT W/S SCOTTS LEVEL
RD. & N/S CHICORY HILL LANE,
2nd DISTRICT, FROM D.R. 5.5
TO D.R. 16
ZONING FILE NO. R-82-183
JERMOWEB, INC.,
APPELLANTS

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW
Misc. 14/129/82-M-124

MOTION TO DISMISS

People's Counsel for Baltimore County, a Protestor below and Appellee here, respectfully moves this Honorable Court to dismiss the appeal herein on the following ground:

1. That this is an administrative appeal from an action of the County Board of Appeals of Baltimore County and is therefore governed by Section B of the Maryland Rules of Procedure.
2. That the record in this case was duly transmitted by the said County Board of Appeals of Baltimore County to the Clerk of this Honorable Court and received by said Clerk on June 18, 1982.
3. That thereafter, the provisions and requirements of Maryland Rule B12, came into play, which said rule reads as follows:

"Within 30 days after being notified by the clerk of the filing of the record, the appellant shall file a memorandum setting forth a concise statement of all issues raised on appeal and argument on each issue, including citations of legal authorities and references to pages of the transcript and exhibits relied on. Within 30 days thereafter any other party desiring to be heard, including the appropriate agency when entitled by law to be a party to the appeal, shall file an answering memorandum in the same form. The appellant may file a reply memorandum within 15 days after the filing of any answering memorandum. This Rule shall not apply to appeals from the Workmen's Compensation Commission."

4. That in accordance with the provisions of said Maryland Rule B12, therefore, Appellant had until July 19, 1982 as the period of time within which to file the required

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have been properly documented by the Plaintiff through its Petitioner, Sol E. Gerstman, and the errors in original zoning have also properly been pointed out by his testimony. Furthermore, the Court of Appeals in the 1970 case of Roberts vs. Grant, 20 MD. app. 247, 315 A2d, 103, recites that "A substantial change in character of neighborhood is not required to justify rezoning small portion of land that is zoned in a manner wholly inconsistent with surrounding area". In such event, the court seems to say that in a case such as the instant case at bar, it is not even necessary to show a substantial change notwithstanding the fact that Petitioner has shown substantial change, when there is justification to rezone a small portion of land which is zoned in a manner wholly inconsistent with surrounding area. The subject property seems to be zoned in a manner wholly inconsistent with surrounding area, and, if the proposition set forth in the case of Roberts vs. Grant were to be applied, it is not necessary for the Petitioners to show substantial change.

The 1959 case of Muhlly vs. County Council for Montgomery County, 218 MD. 543, 147 A2d, 735, states that "Readoption of a County Zoning Map and Plan, without change as to a particular property, is entitled to presumption that it was a deliberate confirmation of the earlier decision, but changes between time of initial zoning and the confirmation should not be wholly disregarded."

It seems that the County Board of Appeals in the instant case has wholly disregarded changes which have occurred both prior to the 1980 Map and subsequent thereto, such action seemingly being arbitrary, capricious and unreasonable. Furthermore, the 1974 case entitled Coppolino vs. County Board of Appeals, 23 MD. app., 358, 328 A2d, 55, recites "An opinion, even that of an expert is not evidence strong or substantial enough to show error in comprehensive rezoning or confiscation unless the reasons given by the expert as the basis for his opinion, or other supporting facts relied upon by him, are themselves substantial and strong

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Memorandum, but he failed to do so.

WHEREFORE, Movant respectfully requests that this Honorable Court dismiss this appeal and that Movant be awarded his proper costs.

John W. Hessian, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

Peter Max Zimmerman
Deputy People's Counsel

I HEREBY CERTIFY that on this 18th day of January, 1983, a copy of the foregoing Motion to Dismiss was mailed to Jerome Seaman, President, Jermoweb, Inc., 621 Reisterstown Road, Pikesville, MD 21208; and Donald P. Mazor, Esquire, 114 Slade Avenue, Baltimore, MD 21208, Attorney for Petitioners/Appellants.

John W. Hessian, III

In the Matter of: The application of Edward D. Ireland et al, for Rezoning of Property Located at Scotts Level, North Side of Chicory Hill Lane from D.R. 5.5 to D.R. 16

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

Docket 14 Folio 129

Case No. 82-M-124

NOTICE OF FILING OF RECORD

TO: Donald P. Mazor, John W. Hession III, June Holmen, Peter Max Zimmerman, Charles Crane, Sol E. Gerstman

In accordance with Maryland Rule of Procedure B12, you are notified that the record in the above entitled case was filed on June 18, 1982.

Edmer H. Kallinger, Clerk

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IN THE MATTER OF THE APPLICATION OF EDWARD D. IRELAND, et al PETITIONERS FOR REZONING OF PROPERTY LOCATED AT SCOTTS LEVEL, NORTH SIDE OF CHICORY HILL LANE FROM D.R. 5.5 TO D.R. 16

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

CASE NO. R-82-183

ORDER

Upon the foregoing Petition to Extend Time to Transmit Record, it is this 7 day of May, 1982, by the Circuit Court for Baltimore County,

ORDERED that the time for transmitting the record on appeal in this action to this Court is extended up to and including July 29, 1982.

JUDGE

IN THE MATTER OF THE APPLICATION OF EDWARD D. IRELAND, et al, PETITIONERS FOR REZONING OF PROPERTY LOCATED AT SCOTTS LEVEL, NORTH SIDE OF CHICORY HILL LANE FROM D.R. 5.5 TO D.R. 16 2nd DISTRICT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

JERMOWEB, INC., APPELLANTS

ZONING FILE NO. R-82-183

Misc. Doc. No. 14

Folio No. 129

File No. 82-M-124

CERTIFIED COPIES OF PROCEEDINGS BEFORE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, Leroy B. Spurrier and John V. Murphy, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Board of Appeals of Baltimore County:

ENTRIES FROM DOCKET OF BOARD OF APPEALS OF BALTIMORE COUNTY

No. R-82-183

August 31, 1981 Petition of Edward D. Ireland, et al, for reclassification from DR 5.5 to DR 16 zone, on property located on the west side of Scotts Level Road and north side of Chicory Hill Lane, 2nd District, filed

Order of William T. Hackett, Chairman, County Board of Appeals, directing advertisement and posting of property - date of hearing set for March 16, 1982, at 10 a.m.

October 30, 1981 Comments of Baltimore County Zoning Advisory Committee filed

February 25, 1982 Certificate of Publication in newspaper - filed

February 27, 1982 Certificate of Posting of property - filed

March 16, 1982 At 10 a.m. hearing held on petition

IN THE MATTER OF THE APPLICATION OF EDWARD D. IRELAND, et al., PETITIONERS FOR REZONING OF PROPERTY LOCATED AT W/S SCOTTS LEVEL RD. & N/S CHICORY HILL LANE, 2nd DISTRICT, FROM D.R. 5.5 TO D.R. 16

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

Misc. 14/129/82-M-124

ZONING FILE NO. R-82-183

JERMOWEB, INC., APPELLANTS

ANSWER TO PETITION ON APPEAL

The People's Counsel for Baltimore County, Protestant below and Appellee herein, answers the Petition on Appeal heretofore filed by the Appellant, viz:

1. That the Appellee denies the allegations made and contained in the first, second and third paragraphs of said Petition.
2. That the decision of the Board herein was proper and justified by the evidence before it and that the decision of the Board should therefore be sustained as being properly and legally made.

AND AS IN DUTY BOUND, etc.,

John W. Hession, III
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 8th day of May, 1982, a copy of the foregoing Answer to Petition on Appeal was delivered to the Administrative Secretary, County Board of Appeals, Rm. 200, Court House, Towson, MD 21204; and a copy mailed to Donald P. Mazor, Esquire, 114 Slade Ave., Baltimore, MD 21203; and Mr. Sol E. Gerstman, Twin Oaks Associates, Inc., 4508 Dresden Rd., Baltimore, MD 21208.

Edward D. Ireland, et al
Zoning File No. R-82-183

March 31, 1982 Order of the County Board of Appeals ordering that the reclassification from D.R. 5.5 to D.R. 16 petitioned for, be and the same is DENIED

April 29, 1982 Order for Appeal filed in Circuit Ct. for Baltimore County by Donald P. Mazor, Esq., Counsel for Appellants

April 29, 1982 Petition to accompany Order for Appeal filed in Circuit Court for Baltimore County.

April 30, 1982 Certificate of Notice sent to all interested parties

June 18, 1982 Transcript of testimony filed

Petitioner's Exhibit No. 1 - Aerial photo dated 3/28/72

" " " 2 - " " " 4/1/77

" " " 3A thru 3L - Photos showing property under petition

" " " 4A thru 4I - Series of photos taken between 8:00 & 8:30 a.m. on 3/12/82

" " " 5 - Topo Map on subject site

June 18, 1982 Record of proceedings filed in the Circuit Ct. for Baltimore County

Record of proceedings pursuant to which said Order was entered

and said Board acted are permanent records of the Zoning Department of Baltimore County, as are also the use district maps, and your respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your respondents will produce any and all such rules and regulations, together with the zoning use district maps at the hearing on this petition, or whenever directed to do so by this Court.

Respectfully submitted,

June Holmen
County Board of Appeals of Baltimore County

cc: Sol E. Gerstman
Donald P. Mazor, Esq.
J. Hession, Esq.

IN THE MATTER OF THE APPLICATION OF EDWARD D. IRELAND, et al, PETITIONERS FOR REZONING OF PROPERTY LOCATED AT SCOTTS LEVEL, NORTH SIDE OF CHICORY HILL LANE FROM D.R. 5.5 TO D.R. 16

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

ZONING FILE NO. R-82-183

Misc. Doc. No. 14

Folio No. 129

File No. 82-M-124

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Leroy B. Spurrier and John V. Murphy, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, Jermoweb, Inc., Jerome Seaman, President, 631 Reisterstown Rd., Baltimore, Md. 21208, Contract Purchaser-Appellant; Donald P. Mazor, Esq., 114 Slade Ave., Baltimore, Md. 21208, Counsel for Appellant; Edward D. Ireland, 2220 Poplar Grove St., Baltimore, Md. 21216, Petitioner; Charles Crane, 1800 N. Charles St., Baltimore, Md. 21201, Petitioner; Sol E. Gerstman, Twin Oaks Associates, Inc. 4508 Dresden Rd., Baltimore, Md. 21208, Petitioner's Representative; and John W. Hession, III, Esq., Court House, Towson, Md. 21204, People's Counsel for Baltimore County, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

June Holmen
County Board of Appeals of Baltimore County
Rm. 200, Court House, Towson, Md. 21204
Telephone 494-3180

IN THE MATTER OF THE APPLICATION OF EDWARD D. IRELAND, et al PETITIONERS FOR REZONING OF PROPERTY LOCATED AT SCOTTS LEVEL, NORTH SIDE OF CHICORY HILL LANE FROM D.R. 5.5 TO D.R. 16

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

CASE NO. R-82-183

PETITION TO EXTEND TIME TO TRANSMIT RECORD

Jermoweb, Inc. Contract Purchaser, appellant, by Donald P. Mazor, its attorney, moves pursuant to the Maryland Rules, that the time for the transmittal of the record in this action to this Court be extended up to and including July 29, 1982. The grounds of the motion are as follows:

- 1) Promptly upon the taking of this appeal, appellant paid the Circuit Court Fee and transcript deposit to the Board of Appeals of Baltimore County as required by the Rules, and the transcript was immediately ordered.
- 2) That the Court Stenographer for the Board of Appeals of Baltimore County, Ms. Carol Beresh, advised that she would be unable to supply the transcript for a period of 90 days from April 29, 1982.
- 3) Through no fault of the appellant, it will not be possible to obtain the transcript until the court stenographer supplies same to the appellant, and the delay is through no fault of the appellant but caused by the work load of the court reporter and transcriber.

Donald P. Mazor
114 Slade Avenue
Baltimore, Maryland 21208
486-0115
Attorney for Appellant

I HEREBY CERTIFY, that on this 29th day of April, 1982, I mailed a copy of the foregoing Petition and Order to the Board of Appeals of Baltimore County, Room 200, Old Court House, Towson, Maryland 21204.

Donald P. Mazor, Attorney

Edward D. Ireland, et al
Case No. R-82-183

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Jermoweb, Inc., Jerome Seaman, President, 631 Reisterstown Rd., Baltimore, Md. 21208, Contract Purchaser-Appellant; Donald P. Mazor, Esq., 114 Slade Ave., Baltimore, Md. 21208, Counsel for Appellant; Edward D. Ireland, 2220 Poplar Grove St., Baltimore, Md. 21216, Petitioner; Charles Crane, 1800 N. Charles St., Baltimore, Md. 21201, Petitioner; Sol E. Gerstman, Twin Oaks Associates, Inc., 4508 Dresden Rd., Baltimore, Md. 21208, Petitioner's Representative; and John W. Hession, III, Esq., Court House, Towson, Md. 21204, People's Counsel for Baltimore County, on this 30th day of April, 1982.

June Holmen
County Board of Appeals of Baltimore County

While the above description is accurate as far as it goes, in fact, the property as shown on the reclassification petition zoning map indicates that the property is also adjoined by extensive D.R. 5.5 zoned property, that is across Scotts Level Road, immediately to the south across Chicory Hill Lane and to the west towards the O'd Court Junior High School. These D.R. 5.5 properties contain individual homes along Scotts Level Road, a convalescent home, which had been permitted by special exception, and vacant property, primarily constituting the playing fields of the Old Court Junior High School. The People's Counsel, through the County Agencies, opposed the reclassification of this property. The Zoning Plans Advisory Committee Report also opposed the petition because there were significant problems with traffic in the neighborhood and more specifically that the intersections of Scotts Level and Milford Mill Rds. and Scotts Level and Old Court Rds. are at an E level of service. This level indicates severely strained and overworked intersection and was the primary grounds apparently for the Planning Board's determination to oppose the petition. Additional grounds were found in the Department of Health's comments that the property was subject to the Gwynns Falls Sewer Moratorium. On these basis, the Planning Board recommended against adoption of this reclassification.

In spite of the obvious difficulties with the Zoning Plans Advisory Committee Report opposing the property, the Board will not grant the reclassification. While the Petitioner has successfully shown the Committee's report in error, they are under an obligation to demonstrate to this Board that either an error has been committed on the 1980 Comprehensive Zoning Map or that a significant change has been made in the neighborhood. Neither of these items has been demonstrated. In regard to change in the neighborhood, the Petitioner's expert testified as a nearby resident of the neighborhood, that many apartment complexes and changes had taken place over the years. However, the Board determines the issue of change in the neighborhood from the last Comprehensive Zoning Map which was adopted in October, 1980. No evidence of significant change in the

The zoning on this property was not an issue in the 1980 Comprehensive Zoning Maps but was adopted by the County Council in its general review of the County Zoning process. A very strong presumption of correctness goes with the County Council's adoption of zoning for the County and the Board has seen nothing to overcome that presumption. Specifically, when asked why the property could not be developed in its present D.R. 5.5 zoning, the Board believes that there was not sufficient evidence produced by the developer to indicate that D.R. 5.5 was insufficient to allow any development. On the contrary, the increase in density actually discussed for the townhouse project by the Petitioner was not significantly higher than the full development capability of the present D.R. 5.5 zone. Apparently, this is because the property has a slope and grade problem to it. The Board is of the opinion that whereas D.R. 5.5 may not be the most ideal zoning for the property, it is clearly not in error. The Petitioner similarly has a reasonable use of his land.

John V. Murphy *John V. Murphy*
 Leroy B. Spurrier *Leroy B. Spurrier*

Donald P. Mazer, Attorney

3) Unless this Court reverses the Order dated March 31, 1982 of the Board of Appeals of Baltimore County and changes the zoning classification of said property from D.R. 5.5 to D.R. 16, your Petitioners will suffer irreparable harm and injury.

Donald P. Mazor, Attorney

I certify that I delivered the original of this Summons to Paul H. Jones on this 15 day of April, 1964.

RECLASSIFICATION PETITION DR 5.5 TO DR 16 OF LAND
AT THE NORTHWEST CORNER OF SCOTTS LEVEL ROAD AND CHICORY HILL LANE

2ND COUNCILMANIC DISTRICT, 12TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

This is a request to reclassify the subject properties from the DR 5.5 classification to the DR 16 classification, to allow sufficient dwelling unit density for spreading the development costs of certain environmental improvements required by changes in the neighborhood character while constructing homes for families of moderate income.

Both in the context of existing zoning and of existing development, it was a mistake in the last zoning cycle not to have rezoned these and some smaller scattered parcels to the DR 16 classification. Directly to the north of these properties is an apartment development zoned in the DR 16 classification. Across Scotts Level Road, to the east of the subject properties, is vacant land in the DR 16 classification. Immediately to the south, a 150 bed nursing and convalescent home was constructed, as a Special Exception, and is now occupied. Also, to the south is extensive DR 16 zoning all developed with apartments. To the west, are a number of institutional uses, including the Old Court Junior High School and the Colonial Baptist Church property which essentially cut off the subject properties from other similar apartment development to the west. However, as institutions, the Junior High School property and the Church do not require the same intensive zoning classification as other properties, similar to the subject, would require.

Because of neighborhood changes, such as construction of the nursing and convalescent home, development of the subject properties in the current zoning classification is economically unfeasible and represents a hardship to the property owners. Any development plan for the subject property will require additional costly site and design improvements to shield residential structures from these negative influences, thus raising costs for DR 5.5 density development to prohibitive economic levels.

Another negative environmental influence is the Beltway which lies approximately 600 feet to the east of the subject properties. The Beltway is scheduled for a widening to four lanes in each direction. Even at the present size traffic noise is distinctly heard in the vicinity of the subject properties. In this case, the developer will also have to undertake special site and architectural design improvements to shield the properties from this undesirable influence. These and other excess costs of individual units developed at the DR 5.5 density are beyond what the market would be prepared to pay, either as a sale price or as a rent, for the projected moderate income housing proposed for the site.

Unless there is an opportunity through this reclassification to distribute these excess costs over the larger number of units required, the supply of moderate income housing in the County will continue to decline.

We respectfully submit that it was a mistake not to have reclassified the subject properties to the DR 16 classification during the last zoning cycle. We also respectfully submit that construction of the nursing and convalescent home, among other factors, constitutes a change in the neighborhood character.

For these and other reasons to be brought out at the hearing on this petition, we hereby respectfully request your approval for the reclassification from the DR 5.5 classification to the DR 16 classification for the subject properties.

Mr. Nicholas B. Commodari
November 24, 1981
Page 2

Finally, the zoning map is a copy of the official county zoning map, which is not drawn to engineering/surveying standards. Since a large portion of the land on the east side of Scotts Level Road is presently zoned in the DR 16 classification, we feel strongly that our statement regarding the DR 16 classification of surrounding properties remains valid.

Thank you for consideration of these additional points in your deliberations on the appropriateness of the reclassification.

Sincerely,

John W. Hession, III
John W. Hession, III

cc Jerome Seaman, Esq.

RE: PETITION FOR RECLASSIFICATION : BEFORE THE COUNTY BOARD OF APPEALS
from D.R. 5.5 to D.R. 16 Zone
NW corner of Scotts Level Rd.
and Chicory Hill Lane
2nd District
EDWARD D. IRELAND, et al, : Case No. R-82-183 (Item 4, Cycle II, 1981)
Petitioners

ORDER TO ENTER APPEARANCE

To the Honorable, Members of Said Board:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefor, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

John W. Hession, III
John W. Hession, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 5th day of March, 1982, a copy of the

foregoing Order was mailed to Sol E. Gerstman, Twin Oaks Associates, Inc., 4508

Dresden Road, Baltimore, Maryland 21208, Petitioners' Representative; and Jeromeweb,

Inc., Jerome Seaman, President, 631 Reisterstown Road, Baltimore, Maryland 21208,

Contract Purchaser.

John W. Hession, III
John W. Hession, III

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

Mr. Sol E. Gerstman
Twin Oaks Associates, Inc.
4508 Dresden Road
Pikesville, Maryland 21208

RE: Petition for Reclassification
NW/corner of Scotts Level Rd. & Chicory Hill La.
Edward D. Ireland, et al - Petitioners
Cycle #2 - Item #4

Dear Mr. Gerstman:

This is to advise you that \$96.69 is due for the first advertising of the above property. Two additional bills will be forwarded to you in the near future. All bills must be paid before an order is issued.

Please make check payable to Baltimore County, Maryland, and remit to Karen Riegel, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Very truly yours,
William E. Hammond
WILLIAM E. HAMMOND
Zoning Commissioner

WEH:mch

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 104542

DATE 1/29/82 ACCOUNT 01-662

AMOUNT \$96.69

RECEIVED Jerome Seaman, P.A.

FOR 1st full page add for Item #4, Cycle #2 (Ireland)

January 18, 1982

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

Mr. Sol E. Gerstman
Twin Oaks Associates, Inc.
4508 Dresden Road
Pikesville, MD 21208

RE: Petition for reclassification
NW/corner of Scotts Level Rd. & Chicory Hill La.
Edward D. Ireland, et al - Petitioners
Case #R-82-183

Dear Mr. Gerstman:

This is to advise that \$52.75 is due for the 2nd full page add of the cycle 2 billing. You have already been billed for the 1st full page add. A third bill for the individual advertising and posting of the above property will be forthcoming. All bills must be paid before an order is issued.

Please make check payable to Baltimore County, Maryland, and remit to Karen Riegel, Room 113, County Office Building, Towson, Maryland, 21204, as soon as possible.

Very truly yours,

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 106841

DATE 4-1-82 ACCOUNT 01-662

AMOUNT \$52.75

RECEIVED FROM Jerome Seaman, P.A.

FOR 1st full page add for Item #4, Cycle #2 (Ireland)

VALIDATION OR SIGNATURE OF CASHIER

September 30, 1981

Mr. Walter Reiter, Chairman
Board of Appeals
Court House
Towson, Maryland 21204

Dear Mr. Reiter:

Comments on Item #4, Zoning Advisory Committee Meeting for Cycle II, are as follows:

Property Owner: Edward D. Ireland, et al
Location: W/S Scotts Level Road & N/S Chicory Hill Lane
Existing Zoning: D.R. 5.5
Proposed Zoning: D.R. 16
Acres: 4
District: 2nd.

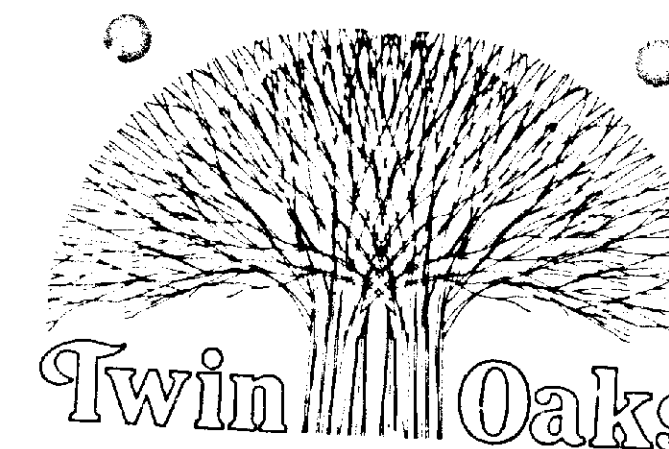
Metropolitan water and sewer are available. Connection to metropolitan sewer is subject to the Gwynns Falls Sewer moratorium.

The Zoning Plan, as submitted, does not include enough information to enable the Baltimore County Department of Health to make complete comments.

Very truly yours,

Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJJ/JRP/wgt



November 24, 1981

Mr. Nicholas B. Commodari, Chairman
Zoning Plans Advisory Committee
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Dear Mr. Commodari:

Thank you for your recent letter regarding our petition for reclassification of property, at the northwest corner of the intersection of Chicory Hill Lane and Scotts Level Road, from the DR 5.5 to the DR 16 classification.

In applying for this reclassification, we were well aware of the necessity to meet all Baltimore County requirements for subdivision and for building permit approval. We also are aware of the time required to pass through all steps of zoning reclassification and subdivision approval and feel all utility deficiencies will be corrected prior to the time we would apply for a building permit.

We anticipate being ready to build, given current and foreseeable market conditions, about 18 months after action on the reclassification.

Regarding the comment of both Planning and Traffic Engineering on the E/F level of service at the intersection of Scotts Level Road and Old Court Road, the County will be letting a contract for improvement of this intersection around the beginning of next year with construction to be completed before the summer of 1982.

Regarding the Gwynns Falls Sewer Moratorium, we are anxious to resolve the reclassification question so that we will know how to proceed with preparation of a subdivision plan, which will be filed as soon as possible to establish standing for a sewage allocation.

Twin Oaks Associates, Inc. 521 St. Paul Place Balto., Md. 21202 Phone: 685-4020

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

Sol E. Gerstman
Twin Oaks Associates, Inc.
4508 Dresden Road
Pikesville, Maryland 21208

RE: Petition for Reclassification
NW/corner of Chicory Hill La. & Scotts Level Rd.
Edward D. Ireland - Petitioner
Case #R-82-183

Dear Mr. Gerstman:

This is to advise you that \$63.80 is due for advertising and posting of the above property.

Please make check payable to Baltimore County, Maryland, and remit to Karen Riegel, Room 113, County Office Building, Towson, Maryland 21204 before the hearing. This is your final bill.

Very truly yours,

William E. Hammond
WILLIAM E. HAMMOND
Zoning Commissioner

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 105746

DATE 3/10/82 ACCOUNT 01-662

AMOUNT \$63.80

RECEIVED FROM Jerome Seaman

FOR Individual Posting & Advertising of Case #R-82-183 (Ireland, et al)

VALIDATION OR SIGNATURE OF CASHIER

John W. Mazor, Esq.
114 Slade Ave., (21208)

1. The Court is hereby ordered that the parties to the above-captioned case shall appear before the Court on the 12th day of April, 1982, at 10:00 A.M. for the purpose of hearing the appeal.
2. The Court is hereby ordered that the parties to the above-captioned case shall appear before the Court on the 12th day of April, 1982, at 10:00 A.M. for the purpose of hearing the appeal.
3. The Court is hereby ordered that the parties to the above-captioned case shall appear before the Court on the 12th day of April, 1982, at 10:00 A.M. for the purpose of hearing the appeal.
4. The Court is hereby ordered that the parties to the above-captioned case shall appear before the Court on the 12th day of April, 1982, at 10:00 A.M. for the purpose of hearing the appeal.
5. The Court is hereby ordered that the parties to the above-captioned case shall appear before the Court on the 12th day of April, 1982, at 10:00 A.M. for the purpose of hearing the appeal.
6. The Court is hereby ordered that the parties to the above-captioned case shall appear before the Court on the 12th day of April, 1982, at 10:00 A.M. for the purpose of hearing the appeal.
7. The Court is hereby ordered that the parties to the above-captioned case shall appear before the Court on the 12th day of April, 1982, at 10:00 A.M. for the purpose of hearing the appeal.
8. The Court is hereby ordered that the parties to the above-captioned case shall appear before the Court on the 12th day of April, 1982, at 10:00 A.M. for the purpose of hearing the appeal.
9. The Court is hereby ordered that the parties to the above-captioned case shall appear before the Court on the 12th day of April, 1982, at 10:00 A.M. for the purpose of hearing the appeal.
10. The Court is hereby ordered that the parties to the above-captioned case shall appear before the Court on the 12th day of April, 1982, at 10:00 A.M. for the purpose of hearing the appeal.

April 30, 1982

FILED TO: Donald P. Mazor, Esq.
114 Slade Ave., (21208)

Cost of certified documents filed in Case No. R-22-163 \$ 20.00

Edward D. Ireland, et al
W's Scott Level Rd. and
N's Chisney Hill Lane
2nd District

MAKE CHECKS PAYABLE TO: Baltimore County, Md.

REMIT TO: County Board of Appeals
Rm. 219, Court House
Towson, Md. 21204

John Adams - 494-2660
Circuit Court for Baltimore County
Assignment Office
County Courts Building
401 Bayley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
Date: 11/19/82

Jerome Seaman, Esq.
County Board of Appeals of Baltimore Co.
Donald P. Mazor, Esq.
John W. Mazor, III, Esq.
Peter V. Zimmerman, Esq.

Barry Ruckman - 494-2660
Assignment Office
County Courts Building
401 Bayley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
Date: 11/19/82

RE: RZ - 02 N 124 - In the Matter of Edward D. Ireland vs. Jerome Seaman, Esq., et al.

HEARING DATE: Wednesday, Jan. 12, 1983, @ 9:30 a.m.

ON THE FOLLOWING: Appeals 3 hours

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to confirm calendars. Claims of not receiving notice will not constitute reason for postponement.

POSTPONEMENTS: If the above date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS WITHIN 15 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments - Joyce Grimm - 494-3462.

SETTLEMENT CONFERENCES: All counsel must secure the attendance of all parties necessary to effect a binding settlement, including clients and in-house representatives. THERE WILL BE NO EXCEPTIONS PER ORDER OF JUDGE FRANK E. CROONE. Please direct all inquiries to the attention of John Adams.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if no order of satisfaction is filed prior to trial.

John Adams - 494-2660
Circuit Court for Baltimore County
Assignment Office
County Courts Building
401 Bayley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
Date: 11/19/82

Jerome Seaman, Esq.
County Board of Appeals of Baltimore Co.
Donald P. Mazor, Esq.
John W. Mazor, III, Esq.
Peter V. Zimmerman, Esq.

Kelly Ruckman - 494-2660
Assignment Office
County Courts Building
401 Bayley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
Date: 11/19/82

RE: RZ - 02 N 124 - In the Matter of Edward D. Ireland vs. Jerome Seaman, Esq., et al.

HEARING DATE: Monday, January 24, 1983, @ 9:30 a.m.

ON THE FOLLOWING: Appeals 3 hours

Notes: Corrected notice.

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to confirm calendars. Claims of not receiving notice will not constitute reason for postponement.

POSTPONEMENTS: If the above date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS WITHIN 15 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments - Joyce Grimm - 494-3462.

SETTLEMENT CONFERENCES: All counsel must secure the attendance of all parties necessary to effect a binding settlement, including clients and in-house representatives. THERE WILL BE NO EXCEPTIONS PER ORDER OF JUDGE FRANK E. CROONE. Please direct all inquiries to the attention of John Adams.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if no order of satisfaction is filed prior to trial.

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204
April 30, 1982

John W. Mazor, Esq.
Court House
Towson, Md. 21204

Re: Case No. R-22-163
Edward D. Ireland, et al

Dear Mr. Mazor:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,
June Holmen, Secy.

Encls.
cc: Sol E. Gentman
Edward D. Ireland
Charles Crane
Ed. of Education
W. Hammond
J. Dyer
N. Gorker
J. Howell

April 30, 1982

FILED TO: Donald P. Mazor, Esq.
114 Slade Ave., (21208)

Cost of certified documents filed in Case No. R-22-163 \$ 20.00

Edward D. Ireland, et al
W's Scott Level Rd. and
N's Chisney Hill Lane
2nd District

MAKE CHECKS PAYABLE TO: Baltimore County, Md.

REMIT TO: County Board of Appeals
Rm. 219, Court House
Towson, Md. 21204

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204
April 30, 1982

Donald P. Mazor, Esq.
114 Slade Ave.
Baltimore, Md. 21208

Re: Case No. R-22-163
Edward D. Ireland, et al

Dear Mr. Mazor:

In accordance with Rule 5-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the zoning appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule 5-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,
June Holmen, Secretary

Encls.
cc: Jermoweb, Inc.

- intersection)
4. Photographs taken between 8:00 and 8:35 a.m. on Friday, March 12, 1982 (ground is still wet from overnight rain)
 - 4A. Old Court Road, facing east (same location as 3K) showing last of Scotts Level cross traffic clearing intersection when light turned green
 - 4B. Same as 4A and 3K, showing how single green cycle cleared all Old Court Road traffic
 - 4C. Same location as 3L (light is green, truck parked in same location - impeding morning rush hour traffic)
 - 4D. Same as 3D and 3E (light is green)
 - 4E. Same as 3D, 3E and 4D (light is orange of same cycle as 4D)
 - 4F. Same as 3A (light is orange showing "clear-away" of any traffic which may have been stopped by red of this cycle)
 - 4G. Same as 3A and 4F showing maximum "back-up" of traffic during a cycle (light is green)
 - 4H. Same as 3B
 - 4I. Same as 3C (light is orange showing "clear-away" of any traffic which may have been stopped by red of this cycle)
 5. Topographic map of subject site

Sol E. Gerstman
Twin Oaks Associates, Inc.
4508 Dresden Road
Pikesville, Maryland 21208

February 16, 1982

NOTICE OF HEARING

RE: Petition for Re-classification
NW/Cor. of Chickory Hill La. & Scotts Level Rd.
Edward D. Ireland & Charles Crane - Petitioners
Case #R-82-183 Room #4 - Cycle II

TIME: 10:00 A.M.

DATE: Tuesday, March 16, 1982

PLACE: Room 218, Courthouse, Towson, Maryland

William T. Hackett
William T. Hackett, Chairman
County Board of Appeals

cc: Jermoweb, Inc.
Jerome Seaman, President
631 Reisterstown Road
Pikesville, MD 21208

John W. Hessian, III
Peoples Council

494-3180

County Board of Appeals

Room 219, Court House
Towson, Maryland 21204
March 31, 1982

Sol E. Gerstman, Esq.
Twin Oaks Associates, Inc.
4508 Dresden Road
Baltimore, Md. 21208

Re: Case No. R-82-183
Edward D. Ireland, et al

Dear Mr. Gerstman:

Enclosed herewith is a copy of the Opinion and
Order passed today by the County Board of Appeals in the above entitled
case.

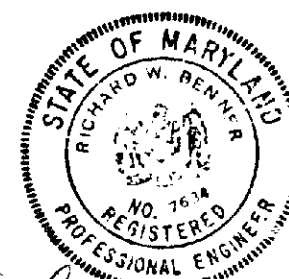
Very truly yours,

June Holmen
June Holmen, Secretary

Encl.
cc: Edward D. Ireland
Charles Crane
Jerome Seaman
W. Hammond
J. Dyer
N. Gerber
J. Howell
Board of Education

VILLAGE OF SCOTTS LEVEL BRANCH
RECLASSIFICATION PETITION DR5.5 TO DR16 OF LAND AT THE
NORTHWEST CORNER OF SCOTTS LEVEL ROAD AND CHICORY HILL LANE
PROPERTY DESCRIPTION

Beginning for the same at the intersection of the West side of
Scotts Level Road and the North side of Chicory Hill Lane and
running thence binding on the North side of Chicory Hill Lane
South 52 degrees 39 minutes West 730.95 feet, and running thence
North 45 degrees 06 minutes West 196.35 feet to a stone described
in a deed from Martin Whiten and wife to Robert Campbell dated May
11, 1907, and recorded among the land records of Baltimore County
in Liber W.P.C. No. 316 Folio 112, thence running and binding on
the outline of said deed North 57 degrees 09 minutes East 346.45
feet to a point, thence running and binding on the second line of
said deed North 43 degrees 26 minutes West 167.47 feet to the
South side of a 10 foot road, North 60 degrees 00 minutes East
394.00 feet to the paving of Scotts Level Road, thence running and
binding on the East line of the above mentioned deed and leaving
Scotts Level Road South 44 degrees 32 minutes East 148.50 feet to
a point on Scotts Level Road, thence along the said side of Scotts
Level Road South 43 degrees 36 minutes East 148.5 feet to the
point of beginning, at the intersection of Scotts Level Road and
Chicory Hill Lane.



Richard W. Binna 3/2/82

494-3180

County Board of Appeals

Room 219, Court House
Towson, Maryland 21204
February 26, 1982

Sol E. Gerstman
Twin Oaks Associates, Inc.
4508 Dresden Road
Baltimore, Md. 21208

Re: Item #4, Case #R-82-183
Cycle II, Edward D. Ireland, et al

Dear Mr. Gerstman:

Your case has been assigned for hearing before the Board during the
normal cycle period for reclassification petitions. Written and public notice of
the date of the hearing has either been given or is in the process of publication.

The Board has been informed that there are presently pending in the
Circuit Court for Baltimore County three separate suits, all of which directly question
the validity of the adoption of the 1980 comprehensive zoning map by the County
Council of Baltimore County. The suits to which we refer are:

Home Builders Assn. of Md., Inc., et al v. Baltimore
County, Md., et al - Circuit Court Equity #107047

Isaac A. Jones v. Baltimore County, Md., et al -
Circuit Court Equity #108029

Shoppco Reisterstown Associates, et al v. Baltimore
County, Md., et al - Circuit Court Equity #107318.

The Board, of course, is not involved in those suits and consequently
will not be asked to express any opinion on the enactment question. However, we
are concerned that the parties to the pending reclassification cases be made aware
that there will probably be a judicial decision on the question sometime in the future,
and if the Circuit Court should find that the maps were, in fact, improperly enacted,
and that decision is affirmed by an appellate court, the various parties to reclassification
cases might then be placed in the position of having expended time and money
in the preparation and trial of their cases based on the comprehensive map which
legally might not exist. The Board has, therefore, determined that it will afford
each of the petitioners in the pending reclassification cases the opportunity to review
the pending Circuit Court cases and make their individual determination as to whether
they wish to proceed at this time to fully try their reclassification case or whether they
would prefer not to take that risk and ask the Board for a continuance of their case
without hearing until such time as there has been a definitive ruling by the courts on
the question of the validity of the 1980 maps.

Page Two

Since there must be some limit to the period of time within which
a decision should be made and communicated to the Board, it has been decided
that all requests for postponements made pursuant hereto must be delivered in
writing to the Board on or before March 15, 1981.

The Board has attached one very important provision to its willingness
to co-operate in the granting of postponements for the purpose outlined above, which
is that it will not countenance the use of the reasons given above for a postponement
for other reasons and, therefore, if a case is postponed for the reason given above it
must remain inactive until there is a definitive action from the courts. Therefore,
parties are cautioned that if they do, in fact, seek a postponement because of the
doubt surrounding the validity of the enactment of the 1980 comprehensive maps,
they will be required to wait until there is a decision from the courts on the question
before the Board will again assign their case no matter how long the case is suspended.

The purpose of this communication is to alert all parties of record
involved of the Board's intention if a request is timely submitted.

Very truly yours,

William T. Hackett
William T. Hackett, Chairman

WITH:

cc: Edward D. Ireland
Charles Crane
Jermoweb, Inc.

PETITION FOR RE-CLASSIFICATION

2nd DISTRICT

ZONING: Petition for Re-classification
LOCATION: Northwest corner of Chickory Hill Lane and Scotts Level Road
DATE & TIME: Tuesday, March 16, 1982 at 10:00 A.M.
PUBLIC HEARING: Room 218 Courthouse, Towson, Maryland

The County Board of Appeals for Baltimore County, by authority of the Baltimore
County Charter, will hold a public hearing:

Present Zoning: D.R.5.5
Proposed Zoning: D.R.16

All that parcel of land in the Second District of Baltimore County

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 104570

DATE: 2/16/82 ACCOUNT: 41-662
AMOUNT: \$50.00
RECEIVED FROM: Jerome Seaman, P.A.
FOR: Filing Fee for Case #R-82-183 (Ireland)
234645316 50.00
VALIDATION OR SIGNATURE OF CASHIER

Being the property of Edward D. Ireland and Charles Crane as shown on plat plan
filed with the Zoning Department

Hearing Date: Tuesday, March 16, 1982, at 10:00 A.M.
Public Hearing: Room 218, Courthouse, Towson, Maryland

BY ORDER OF
WILLIAM T. HACKETT, CHAIRMAN
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland R-82-183

District 2nd Date of Posting: 2-27-82
Posted for: Re-Classification
Petitioner: Edward D. Ireland & Charles Crane
Location of property: NW/Cor. Chickory Hill La. & Scotts Level Rd.
Location of Signs: NW/Cor. of Chickory Hill Lane & Scotts Level Rd.
Remarks: S.D. Auto
Posted by: S.D. Auto Date of return: 3-5-82
Number of Signs: 1

CERTIFICATE OF PUBLICATION

OFFICE OF
Dundalk Eagle

38 N. Dundalk Ave.
Dundalk, Md. 21222 March 5, 1982

THIS IS TO CERTIFY, that the annexed advertisement of
William T. Hackett, Chairman Baltimore County Board of
Appeals in matter of petition for re-classification
was inserted in The Dundalk Eagle a weekly news-
paper published in Baltimore County, Maryland, once a week
for successive weeks before the
26th day of February, 1982; that is to say,
the same was inserted in the issues of
February 25, 1982

Kimbel Publication, Inc.
Publisher.

By *Kimbel Publication, Inc.*

CERTIFICATE OF PUBLICATION

TOWSON, MD., February 25, 1982

THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper printed
and published in Towson, Baltimore County, Md., once a week
for successive weeks before the 16th
day of March, 1982, the last publication
appearing on the 25th day of February
1982.

THE JEFFERSONIAN,

Richard W. Binna
Manager.

Cost of Advertisement, \$ 4.00

PETITION FOR RE-CLASSIFICATION

2nd DISTRICT

ZONING: Petition for Re-classification

LOCATION: Northwest corner of Chickory Hill Lane and Scotts Level Road

DATE & TIME: Tuesday, March 16, 1982 at 10:00 A.M.

PUBLIC HEARING: Room 218 Courthouse, Towson, Maryland

The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter, will hold a public hearing:

Present Zoning: D.R.5.5

Proposed Zoning: D.R.16

All that parcel of land in the Second District of Baltimore County

Beginning for the same at the intersection of the West side of Scotts Level Road and the North side of Chickory Hill Lane and running thence binding on the North side of Chickory Hill Lane South 52 degrees 39 minutes West 730.95 feet, and running thence North 45 degrees 06 minutes West 196.35 feet to a stone described in a deed from Martin Whiten and wife to Robert Campbell dated May 11, 1907, and recorded among the land records of Baltimore County in Liber W.P.C. No. 316 Folio 112, thence running and binding on the outline of said deed North 57 degrees 09 minutes East 346.45 feet to a point, thence running and binding on the second line of said deed North 43 degrees 26 minutes West 167.47 feet to the South side of a 10 foot road, North 60 degrees 00 minutes East 394.00 feet to the paving of Scotts Level Road, thence running and binding on the East line of the above mentioned deed and leaving Scotts Level Road South 44 degrees 32 minutes East 148.50 feet to a point on Scotts Level Road, thence along the said side of Scotts Level Road South 43 degrees 36 minutes East 148.5 feet to the point of beginning, at the intersection of Scotts Level Road and Chickory Hill Lane.

Being the property of Edward D. Ireland and Charles Crane as shown on plat plan filed with the Zoning Department.

Hearing Date: Tuesday, March 16, 1982, at 10:00 A.M.

Public Hearing: Room 218, Courthouse, Towson, Maryland

By Order of WILLIAM T. HACKETT, Chairman

County Board of Appeals of Baltimore County

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